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A SUMMARY

OF

A TREATISE by MAJOR CARTWRIGHT,

ENTITLED

THE PEOPLE'S BARRIER AGAINST UNDUE INFLUENCE:

OR

THE COMMONS' HOUSE OF PARLIAMENT, ACCORDING TO THE CONSTITUTION.

THE foundations of the law of England are the law of reaſon; of God; general cuſtoms of the realm; principles or *maxims*; particular cuſtoms; acts of parliament. Barrier, p. 1. See Mr. Juſt. Aſton, 4 Burrows 3343.

A principle is a manifeſt and ſimple propoſition comprehending a certain truth.

Principles are the proof of every thing; but are not capable of external proof, being ſelf-evident.

If one principle be violated, all are ſhaken.

Againſt him who denies principles diſpute is uſeleſs, and reaſon unintelligible or diſallowed, ſo far as he denies them.

The laws of nature are unchangeable.

All men by nature are equal, ſo far as relates to the common rights of humanity. Ld. Chanc. Forteſcue de Laud. Leg. Angl. Lond. ed. 1771.

The law oppoſes every thing which is evil in itſelf, and promotes whatever is juſt.

Law ſpeaks to *all* with one voice.

Againſt the law of *reaſon* or againſt juſtice there is no preſcription or oppoſed *ſtatute* or *cuſtom*; and if any ſuch be made, they be not ſtatutes or cuſtoms, but *corruptions*. Doctor and Student.

Whatever is deſtructive of law, cannot itſelf be law, for then the law would be felo de ſe. Judge Atkins 227.

A bad cuſtom or uſage is to be aboliſhed; becauſe in cuſtoms, not length of time, but ſolidity of reaſon is to be conſidered.

An unjuſt law is no law. Cicero. Relig. of Nature delin. ſec. 7.

Laws incompatible with the conſtitution are in themſelves void.

What

What thou wouldſt not have done to thyſelf, do not thou to another.

Thou ſhalt not do evil that good may come of it.

The neceſſity of juſtice is eternal, is ſupreme.

The rights of liberty are ſuch as neither the violence of times, nor the power of magiſtrates, nor decrees or judgments, nor acts of parliament, nor the authority of the whole people, which in other things is ſupreme, can ſubvert or weaken.

Law to bind all muſt be aſſented to by all: it is not law, but ſervitude, for the people to be held to that to which they have not aſſented.

To be free is to be in a condition of giving aſſent to the laws of the ſtate, either in *perſon*, or by a *repreſentative* in whoſe election we have a power to vote. See Dr. Price on Civil Liberty.

To be enſlaved is to have no will of our own in the choice of lawmakers; but to be governed by rulers whom other men have ſet over us. The ſame.

To be taxed without being repreſented is contrary to the maxims of law and the firſt principles of the conſtitution. Ld. Chatham.

Taxation and repreſentation are inſeparable. Ld. Camden.

None can be repreſented who have no power to vote.

For one man to have more or leſs than one vote is againſt natural juſtice and equality. Legiſlative Rights, and Barrier.

It is not becauſe electors are a corporation, they can give a power to bind their property, but as they are particular, private, natural PERSONS. Ld. Ch. Juſt. Holt.

The right of electing repreſentatives for the making of laws is not a right dependent on certain kinds and degrees of property, but a perſonal right. Barrier, p. 28.

Even in the beſt conſtituted commonwealth there is a perpetual accumulation of ſomething which will require reform; for which reaſon there is a neceſſity of often recurring to firſt principles. Ld. Camden.

Annual, equal, and univerſal repreſentation are the firſt principles of our conſtitution in fact; and if they were not, they would be ſo in right, as being neceſſary to our freedom, and eſſential to our inalienable franchiſes.

The Commons are the whole people, except the King and the Nobility. Blackſt. i. 403. Barrier, ch. ii.

The commons of England have all a right to ſhare in election, without which they are ſlaves.

The repreſentatives of the Commons ought to be choſen once a year, or oftener if need be, by the declaratory laws of Alfred, and an uſage of more than three hundred years to Edward the firſt, and by the ſtatutes of Edward the third (4 Edw. III. c. 14. and 36 Edw. III. c. 10.) and the uſage for moſt part of the century following, and frequently afterwards, till it was treaſonably interrupted. P. 13.

Equal voice in the election of repreſentatives is conformable to reaſon, to natural right (as is evident thereby, and declared in ſcripture) and to the beſt policy. P. 23—5.

To exclude from a ſhare in the choice of repreſentatives the great part of the people makes bribery eaſier, and therefore corrupts the manners of

of the nation; renders the community dead to its own intereſt, ſafety, and defence; eſtabliſhes miſgovernment, and defeats every poſſible effort of wiſdom and virtue for the permanent welfare of the whole, which ſuch partial excluſion is ſuffered to continue.

The innovation of narrowing the univerſal right of the commons to elect was introduced by the ſtatute of the 8th of Henry the ſixth, a weak and then infant king. P. 31.

Annual parliaments, with a repreſentation unfettered by the arbritary and pernicious reſtraint of the perſonal elective rights, transferring theſe from the man to his property, flouriſhed in the æra of our glory; and under them our freedom, commerce, and happineſs encreaſed to an aſtoniſhing height.

Our preſent repreſentation by inſenſible cauſes is partially indulged in very large proportions, to ſmall, influenced, or nominal boroughs, in a degree that outbalances the counties, while it is unconſtitutionally withheld from the body of the people. P. 31.

Falſe elections and other abuſes are in vain attempted to be remedied now; but their root would be taken away by annual and equal repreſentation, under which they did not, nor can exiſt.

The triennial and ſeptennial acts are void; as being contrary to the conſtitution, without conſent of the people, and againſt natural right. Chap iv. v.

Annual parliaments, with equal and univerſal repreſentation, are the only means of rendering us free, ſafe, and happy at home, and revered abroad; and the neceſſary ſtep towards obtaining a reconciliation with America. See p. 63, 4, 5.

Annual parliaments and equal repreſentation would not occaſion, but effectually prevent tumults, which cannot otherwiſe be avoided. P. 71.

Not one part in ſeven of the males in England, who are of years of diſcretion, and contribute to the public revenue, who are held under the laws of the government, with reſpect to property, liberty, and life, and are bound to the defence of their country in all dangers, have any ſhare in the choice of repreſentatives. Barrier, p. 55. Rep. of the Weſtminſter Sub-committee.

Reformation is practicable with eaſe and certainty, by the people peaceably uniting in the choice of repreſentatives, in ſuch proportion as the number of inhabitants of each county determines, and chooſing them under ſureties for one year only. P. 94.

Each county to be divided into diſtricts, and to chooſe one member, and no more, in each diſtrict.

Elections to be regularly on a certain day throughout the kingdom every year; and ſo of the diſſolution of parliament; of which the meeting and diſſolution by antient uſage was and ought to be certain in time and place. P. 96, and Ch. ii.

Elections to be by ballot. P. 100.

Engagement to be taken by the Candidate of fidelity to the Conſtitutional rights above recited. P. 99.

In p. 20 to 22 is contained "*a declaration of thoſe rights, without the "poſſeſſion of which no people, no individual, can be free;*" which the

SOCIETY

SOCIETY FOR CONSTITUTIONAL INFORMATION have thought it their duty to the Public to diſtribute. And in the fifth chapter the pretended or ſuppoſed expediency of ſeptennial or triennial Parliaments is refuted by the higheſt authorities and cleareſt reaſon; and the ſtatute of the 8th of Hen. VI. by which the great body of the people was and is deprived of the franchiſes of citizens, and of the exerciſe of their rights as men, is ſhewn to be inconſiſtent, impolitic in the extreme, unconſtitutional, and therefore void: and in chap. vi. to the end, the practicability and neceſſity of the propoſed reformation by yearly, equal, and unreſtricted election of repreſentatives is proved, with drafts of bills containing plain and effectual proviſion for that indiſpenſably neceſſary purpoſe. The report of the Sub-committee of Weſtminſter, dated the 27th of May laſt, will be found entirely concurring in eſſentials; and a valuable ſervice has been done to the Public by the bill brought into the Houſe of Lords by the duke of Richmond, which, although in the article of ballot it may not coincide with the two former, yet in the grand point of annual parliaments with equal and univerſal ſuffrage, as well as in every other fundamental, we have reaſon to believe it does. This independent concurrence, it is hoped, is an omen of ſucceſs, being the natural reſult of the ſimplicity, rectitude, and clearneſs that diſtinguiſh great and ſolid truth, unchangeably exiſting, adapted to the perception of all, from arbitrary, fallacious, and artificial ſyſtems, which are veiled in obſcurity, have error for their baſe, ſophiſtry and prejudice for their pillars; and at beſt are ſubſervient to a partial and temporary convenience, not to univerſal and laſting utility. Great indeed is truth, and worthy of our unremitting efforts in promoting it, by thoſe means which are congenial to its divine nature, the means of peace and plain rational perſuaſion. The cauſe of virtue, freedom, and human happineſs, is the cauſe of truth, of mankind, and of heaven; it will ultimately prevail; let not remiſſneſs or inattention in our day retard its triumph.

I have thought this ſhort view of the principles and practical propoſitions of a work which appeared of the firſt importance to our natural, conſtitutional, neceſſary Rights might be of uſe to my countrymen; to whom I ſubmit it, with my earneſt wiſhes for their permanent peace, happineſs, and freedom.

13 July 1780. CAPEL LOFFT.

A LETTER on the DUTY of the Repreſentatives of the Commons in Parliament, and the public Miſchief of their neglecting that Attendance which they owe to their Country.

[Taken from TRENCHARD's (called CATO's) Letters.]

I KNOW not a more laudable ambition in any man, than that of procuring, by his credit with the people, a place in the legiſlature; and when it is procured this way, it is a teſtimony given by his country to his uprightneſs, and to his capacity to ſerve it. This is as high an honour as an Engliſhman can arrive at, and few but Engliſhmen can arrive at it; and the truſt is ſtill as high as the honour and increaſes it: the liberty, the property, nay the virtue, credit, and religion of his country are in his hands. Can heaven or earth afford ſtronger motives for diligence, probity, and attendance? when the happineſs or miſery, the ſecurity or bankruptcy, the freedom or ſervitude of a nation, and all the good or evil which this life affords, depends upon his behaviour, he will find ſufficient cauſe, from virtue, tenderneſs, and duty, to call up all his care, induſtry, and zeal.

But ſo it has often happened in the world, that all the activity and attendance, or moſt of it, have been on the wrong ſide. Vice reigns amongſt men, while virtue ſcarce ſubſiſts: and in many countries the public has been as vigorouſly aſſaulted as it has been ſlowly and faintly defended. Thus it is that liberty is almoſt every where loſt; her foes are artful, united, and diligent; her defenders are few, diſunited, and inactive. And therefore we have ſeen great nations, free, happy, and in love with their own condition, firſt made ſlaves by a handful of traitors, and then kept ſo by a handful of ſoldiers; I mean a handful in compariſon of the people, but ſtill enough to keep them in chains.

Such is the misfortune of mankind, and ſo uncertain is the condition of human affairs, that the very power given for protection contains in it a ſufficient power to deſtroy, and ſo readily does government ſlide, and often ſtart into oppreſſion! and only by watching and reſtraining power is this monſtrous and dreadful tranſition prevented. For this good purpoſe we have parliaments, to whom our miniſters are accountable, and by whom the adminiſtration is ſupported, and its limits and power fixed. The nations round about us had once their parliaments as well as we, but in the room of parliaments their governors have ſubſtituted armies, and conſequently formed a military government, without calling it ſo; but, *whatever it is called, that government is certainly and neceſſarily a military government, where the army is the ſtrongeſt power in the country:* and it is eternally true, that a free parliament and a ſtanding army are abſolutely incompatible, and can never ſubſiſt together.

By parliaments therefore liberty is preſerved, and whoever has the honour to ſit in thoſe aſſemblies, accepts of a moſt ſacred and important truſt; to the diſcharge of which all his vigilance, all his application, all his

his virtue, and all his faculties are neceſſary; and he is bound by all the conſiderations that can affect a worthy mind, and by all the ties that can bind a human ſoul, to attend faithfully and carefully upon this great and comprehenſive duty; a duty which, as it is honeſtly or faithleſly executed, determines the fate of millions, and brings proſperity or miſery upon nations.

Whatever has happened in former reigns, we have reaſon to hope, that no men come now into Parliament with an execrable intention to carry to market a country which has truſted them with its all; and it would be ridiculous to throw away reaſon upon ſuch banditti and public enemies to human ſociety. Such men would be worſe than cannibals, who only eat their enemies to ſatisfy their hunger, and do not ſell and betray into ſervitude their own countrymen, who truſt them with the protection of their property and perſons: but as I have heard that ſome men formerly, to whom this important truſt has been committed, have been treacherous enough, through negligence, to ſacrifice their duty to lazineſs or pleaſure, I ſhall endeavour to ſhew the deformity of ſuch conduct.

The name of a member of parliament has a great and reſpectful ſound, and his ſituation is attended with many privileges and an eminent figure! all which make men ambitious of acquiring a ſeat there; though I am told, ſome of them have ſcarce ever appeared there: the glory and terror of the name was enough for them; which glory they tarniſhed, and converted into their crime and their ſhame by neglecting the duty which was annexed to it, and alone produced it. Small and ridiculous muſt be the glory of that general, who never attends the duties of war, and is always abſent upon the day of battle; or of a miniſter who, while he ſhould be making diſpatches, or concerting ſchemes for the public, is waſting his time at ombre, at cheſs, or with a miſtreſs.

This paſſion for pleaſure is ſtrangely prepoſterous upon ſuch occaſions, and to follow it is cruel; cruel and diſloyal to our country, and even to ourſelves: all our happineſs, and conſequently all our reaſonable pleaſures, are contained in the general happineſs; and when that is gone, or leſſened through our neglect, we need not be ſurprized, but may thank ourſelves, if in the public misfortunes and curſe we find our own.

When a pernicious queſtion has been carried, it is a poor apology to alledge, and had better be left unalledged, that *I was not there.* Why were you not there? Was it not your duty to be there? And were you not bound by the ſolemn and awful truſt you undertook to have been there? Had you been there, perhaps it would not have been carried, perhaps not attempted; or if both, you would have acquitted your own ſoul, and had the honourable teſtimony of your country and of a good conſcience.

Every body knows, that in the penſionary parliaments in Charles the ſecond's time the ſeſſion was almoſt always drawn out into a tedious length, on purpoſe to tire the members, and drive them all out of town, except the truſty creatures of the court, who were in parliament with no other view than to make a penny of their betrayed principles, and to pick the public purſe, for the promiſe of going ſhares with thoſe who ſet them on. Were not the abſent members anſwerable in a great degree for the treachery of

of theſe ſtaunch and patient parricides, by leaving them an opportunity to commit it, when they knew they would commit it? When a man leaves his wife with a known raviſher, and his money in the hands of a noted thief, he may blame himſelf if he ſuffers loſs and diſhonour.

Members of parliament are ſet in a high place, as public ſtewards and guards (the beſt and only ſure guards that a free country can have) to watch for the public welfare, to ſettle the public expences, and to defend public and private property from the unclean and ravenous hands of harpies; and they are obliged by every motive that can oblige to adhere to their ſtation and truſt: when the major part neglect or deſert it, who knows but in times to come there may be always enough remaining to give it up, and be remaining for that very end? He who does not prevent evil when he may, does in effect commit it by leaving others to do ſo, who he cannot be ſure will not do it.

I have heard that ſome of theſe truants from parliament have boaſted, that they never voted wrong: but how often have they been out of the way, when they ſhould have voted right and oppoſed voting wrong? And is not this omiſſion of voting well the next crime to voting ill? And where it is habitual, is it not even worſe than now-and-then voting ill? He who commits but two murders, is leſs guilty as to the community than he who permits twenty which he might have hindered; and he who robs ten thouſand pounds from the public, is a more innocent man than he who ſuffers it to be robbed of an hundred thouſand: or if he who does not prevent a great evil, is leſs guilty in his own eyes than he who commits a leſs; the public, which feels the difference between ten and twenty, muſt judge far otherwiſe, and conſider him as the more pernicious criminal of the two, as *they who are traitors within the law, are the moſt dangerous traitors of all.*

How ridiculous is it to take a great deal of pains to get into parliament, and afterwards come ſeldom or never there, but to keep others out who would perhaps give conſtant attendance? It is fooliſh to alledge, that the adverſary is ſo ſtrong, that your attendance will be uſeleſs; for it has rarely happened that any dreadful miſchief has been carried in a full houſe, or indeed attempted; but opportunities have always been taken from the abſence of the country members: beſides, how often has it happened, that one extravagant attempt has given a ſteady majority to the other ſide? The penſionary parliament itſelf, in Charles the ſecond's time, turned upon that corrupt court; king James's firſt loyal and paſſive-obedience parliament did the ſame, when he declared for governing by armies; and in king William's time the anti-court party, who for many years together could ſcarce ever divide above eighty or ninety, yet grew ſo very conſiderable, upon the attempt for a Standing Army, that the court for ſeveral years after could not boaſt of a much greater number of followers. How abſurd is it for men to bring themſelves into ſuch a dilemma, as either to ſubmit to certain ruin, or in ſome inſtances to hazard their lives and eſtates to get rid of it by an unequal ſtruggle, when both may be eaſily be prevented by doing what they have promiſed to do, and what is their duty, and ought to be their pleaſure to do, and what may be done without further expence than making an honeſt uſe of two monoſyllables.

The

The notions of honour generally entertained are ſtrangely wild, unjuſt, and abſurd. A man that would die rather than pick a private pocket, will without bluſhing pick the pockets of a million: and he who would venture his life to defend a friend, or the reputation of an harlot who has none, will not loſe a dinner or a merry meeting to maintain the wealth and honour of his country. So much ſtronger is pernicious cuſtom than public virtue and eternal reaſon, which alone ought to create and govern cuſtom; and ſo much to the public ſhame and misfortune are ſuch wicked cuſtoms, from the influence of which even wiſe men are not entirely exempted! So weak and wild a thing is the nature of man!

It is obſerved of Cato the younger, that *he always came firſt to the ſenate, and left it laſt.* He ſaid, he entered upon the buſineſs of the ſtate as the buſineſs of every honeſt man; that he conſidered the public as the proper object of his care, zeal, and attendance, and not as a bank for his own private wealth, or a ſource of perſonal honours; that it was a hideous reproach for men who are guided by reaſon, and by it ſuperior to all other creatures, to take leſs care of the ſociety to which they belong, than ſuch inſects as bees and ants take of their hives and common ſtores; that he would never prefer private intereſt or pleaſure to that of the public, and that none of thoſe conſiderations ſhould ever with-hold him from attending faithfully the ſenate.

Here is a virtuous and illuſtrious example, which I would leave upon the minds of my readers, and particularly recommend to thoſe who may moſt want it. When Cæſar had by all manner of wicked ways, by violence, by fraud, and by bribery, procured the government of Gaul and Illyricum for five years, with an army of four legions, with which he afterwards enſlaved Rome itſelf; Cato could not reproach his own heart, that he had been abſent when that fatal law paſſed: he oppoſed it with all his zeal and eloquence, and with the hazard of his life, and told thoſe who made it, what they afterwards ſadly felt, that *they were placing an armed tyrant in their citadel.*

Conſider for God's ſake, gentlemen, the extent and ſacredneſs of your truſt: your country and your conſtitution are in your hands; one unjuſt, one raſh law may overturn both at once, and you with them, and cancel all law and all property for ever; and one good and wiſe law may ſecure them to your lateſt poſterity. Can it be indifferent to you, whether the one or the other of theſe laws paſſes? And if it is not indifferent, will you avoid attending? Be but as aſſiduous againſt evil as others have often been for it, and you have a fair chance to prevent it for ages. Why ſhould not honour, virtue, and good conſcience be as active and zealous as falſehood, corruption, and guilty minds? Conſider the injuſtice, the barbarity, the treachery, and the terrible conſequences of ſloth and abſence. Liberty, when once loſt, is ſcarce ever recovered, almoſt as rarely as human life when it is once extinguiſhed.

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